

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**STEVEN A. SCHWARTZ, et al.,**

**Plaintiffs,**

**v.**

**DENNIS NUGENT, M.D., et al.,**

**Defendants.**

**Civil Action No. 17-9133 (FLW)**

**MEMORANDUM AND ORDER**

This matter has been opened to the Court by Plaintiff's filing of an application to proceed *in forma pauperis* ("IFP application") in connection with his request for pro bono counsel. (ECF Nos. 3, 4.) Plaintiff Steven Schwartz, who submitted the IFP application, is a federal prisoner currently incarcerated Schylkill FCI.

In this action, Plaintiffs Steven and Ilene Schwartz paid the \$400.00 filing fee. Plaintiffs then submitted a motion pursuant to 28 U.S.C. § 1651 of the All Writs Act and are seeking the appointment of *pro bono* counsel. (ECF No. 3.) Where "an unrepresented [p]laintiff in a civil suit is indigent, and where good cause exists for the appointment of pro bono counsel under 28 U.S.C. § 1915(e)(1), the District Court has the discretion and authority to appoint pro bono counsel . . . ." *Williams v. Hayman*, 488 F. Supp.2d 446, 447 (D.N.J. 2007); *see also Brandt v. Hogan*, Civil No. 10-4944(FLW), 2013 WL 1702181, \*11 (D.N.J. Apr.18, 2013).

In connection with his request for *pro bono* counsel, Plaintiff Steven Schwartz, who is a federal prisoner, has filed an *in forma pauperis* application (ECF No. 4), but has used the form for non-prisoners. Although he has provided an account statement from Schuylkill FCI, the statement has not been certified by the appropriate prison official. (*See* ECF No. 4.) Plaintiff

Ilene Schwartz has not filed an IFP application; as such, the Court is unable to determine whether she is indigent for purposes of assessing her pro bono counsel request.

For these reasons, the Court will deny without prejudice Plaintiff's Steven Schwartz's IFP application and direct the Clerk of the Court to send Plaintiff Steven Schwartz the forms to be used by prisoners seeking pro bono counsel and *in forma pauperis* status – *i.e.*, ProBonoPris-1Form.pdf and DNJ-ProSe-007-A.pdf. Additionally, to establish his indigence, Plaintiff Steven Schwartz must also submit a certified six-month account statement his federal facility. The Court will also direct the clerk of the Court to send Ilene Schwartz the forms to be used by non-prisoners seeking appointment of pro bono counsel for non-prisoners *in forma pauperis* status – *i.e.*, ProBonoProSe1.pdf and AO-239.pdf. Each Plaintiff shall fill out his or her respective forms completely and submit them to the Court within 30 days to the extent they are seeking the appointment of *pro bono* counsel.

THEREFORE, it is on this 12<sup>th</sup> day of December, 2017;

ORDERED that Plaintiff Steven Schwartz's application to proceed *in forma pauperis* (ECF No. 4) is hereby DENIED WITHOUT PREJUDICE; and it is further

ORDERED that the Clerk of the Court shall send Plaintiff Steven Schwartz the forms to be used by prisoners seeking pro bono counsel and *in forma pauperis* status – *i.e.*, ProBonoPris-1Form.pdf and DNJ-ProSe-007-A.pdf; and it is further

ORDERED that the Clerk of the Court shall send Ilene Schwartz the forms to be used by non-prisoners seeking appointment of pro bono counsel for non-prisoners *in forma pauperis* status – *i.e.*, ProBonoProSe1.pdf and AO-239.pdf.; and it is further

ORDERED that, each Plaintiff shall fill out his or her respective forms completely and submit them to the Court within 30 days to the extent they are seeking *pro bono* counsel;

Steven's Schwartz's IFP application shall include a certified six-month prison account statement;  
and it is further

ORDERED that the Clerk of the Court shall serve a copies of this Order upon Plaintiffs  
by regular U.S. mail at the addresses on file.

/s/ Freda L. Wolfson  
Freda L. Wolfson  
United States District Judge